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BILL ANALYSIS

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Senate Bill 433 (Substitute S-1 as reported)  
Senate Bill 434 (as reported without amendment)  
Senate Bills 435-438 (Substitutes S-1 as reported)  
Senate Bill 439 (Substitute S-1 as reported)  
Senate Bills 440-451 (as reported without amendment)  
Sponsors: Senator Michael Switalski (S.B. 433, 434, 436-438)  
              Senator Hansen Clark (S.B. 435)  
              Senator Alan L. Cropsey (S.B. 439-441, 443, & 449)  
              Senator Valde Garcia (S.B. 442, 448, 450, & 451)  
              Senator Cameron S. Brown (S.B. 444-447)  
Committee: Appropriations

### **CONTENT**

**Senate Bill 433 (S-1):** The bill would amend the Michigan Vehicle Code to eliminate multiple assessments (which presently total \$25) on civil infractions under the Code, and replace them with a single justice system assessment of \$40 to be transmitted to the State Treasury and deposited into a new "Justice System Fund" (proposed by Senate Bill 439). (MCL 257.629e & 257.907)

**Senate Bill 434:** The bill would amend the Revised Judicature Act (RJA) to eliminate the \$9 State portion of court costs levied on municipal and State civil infractions, and replace it with a \$10 assessment that would be sent to the State Treasury and deposited into the new Justice System Fund. (MCL 600.8727, 600.8729, 600.8731, 600.8733, 600.8735, 600.8827, 600.8829, & 600.8835)

**Senate Bill 435 (S-1):** The bill would amend the RJA to specify that each \$9 in State costs ordered on civil infractions before October 1, 2003, but collected by the court clerk after that date, would be deposited in the Justice System Fund, rather than being distributed under the current method, which sends 45 cents to the judges retirement system, 30 cents to the legislative retirement system, \$4.25 to the Court Equity Fund, and \$4 to the State Court Fund. The bill also would establish State minimum costs of \$45 for each conviction of a serious misdemeanor or a specified misdemeanor and \$40 for each conviction of any other misdemeanor or ordinance violation as of October 1, 2003. After that date, courts would order and collect one of the new assessments as required in Senate Bills 434 and 435 (S-1). (MCL 600.8381)

**Senate Bill 436 (S-1):** The bill would amend the Code of Criminal Procedure by adding a new section that would establish State minimum costs of \$60 for a felony conviction, \$45 for a serious misdemeanor or specified misdemeanor conviction, and \$40 for any other misdemeanor conviction as of October 1, 2003. The clerk would collect the payment and deposit it into the new Justice System Fund. The bill also would make payment of the State minimum costs a condition of probation, and would require the State minimum costs to be collected out of a cash bond or bail deposit posted by the defendant. In addition, the bill would provide for the collection of payments to be allocated according to Chapter XV, Section 22 of the Code. The bill provides that penal fines could not be waived unless court costs were waived as well. (Proposed MCL 769.1j)

**Senate Bill 437 (S-1):** The bill would amend the juvenile code as of October 1, 2003, to establish State minimum costs ordered in a juvenile determination of responsibility of \$60 for a felony, \$45 for a serious or specified misdemeanor, and \$40 for any other misdemeanor or

ordinance violation. The clerk would collect the payment and deposit it into the new Justice System Fund. The bill also would make payment of the State minimum costs a condition of probation or supervision and would require that the collection of payments be allocated according to Section 29 of the code. The bill provides that penal fines could not be waived unless court costs were waived as well. (MCL 712A.18)

**Senate Bill 438 (S-1):** The bill would amend the RJA by increasing filing fees and revising the collection and distribution of filing fees as of October 1, 2003. Table 1 shows details of the fee changes. Rather than having court clerks collect and earmark fees for different funds, the bill would send the entire State portion of the fees (other than Court of Appeals filing fees) to a new Civil Filing Fee Fund in the State Treasury, which would disperse it according to the following formula:

- State Court Fund - 48.5%
- Court Equity Fund - 8.2%
- Judicial Technology Improvement Fund - 11.1%
- Community Dispute Resolution Fund - 5.2%
- Judges Retirement System - 24.0%
- Legislative Retirement System - 1.5%
- State General Fund - 1.5%

<b>Table 1: Senate Bill 438 (S-1) Proposed Filing Fee Changes</b>		
Fee Type	Current Fee	Proposed Fee
Court of Appeals: Filing Fee	\$250	\$375
Probate Court: Civil Filing Fee	\$100	\$150
Probate Court: Guardianship Filing Fee	\$50	\$100
Probate Court: Motion Fee	\$15	\$20
Circuit Court Family Division: Filing Fee	\$50	\$150
Circuit Court: Filing Fee	\$100	\$150
Circuit Court: Appeal from lower court	\$100	\$150
District Court: Damages \$10,000+	\$100	\$150
District Court: Damages \$1,750-\$10,000	\$52	\$60
District Court: Damages \$600-\$1,750	\$32	\$40
District Court: Damages <\$600	\$17	\$20
District Court: Controversy \$1,750-\$10,000	\$32	\$60
District Court: Controversy \$600-\$1,750	\$32	\$40
District Court: Controversy <\$600	\$17	\$20

After October 1, 2005, the filing fees would revert to their current levels. The formula would then change as follows:

- State Court Fund - 64.2%
- Court Equity Fund - 0.0%
- Judicial Technology Improvement Fund - 0.0%
- Community Dispute Resolution Fund - 4.4%
- Judges Retirement System - 27.5%
- Legislative Retirement System - 1.9%
- State General Fund - 2.0%

(MCL 600.321, 600.880-600.880b, 600.1027, 600.2529, 600.5756, 600.8371, & 600.8420)

**Senate Bill 439 (S-1):** The bill would add a new section to the RJA to establish the Justice System Fund in the State Treasury, which would distribute \$10 multiplied by the number of traffic civil infraction assessments collected each month to the Secondary Road Patrol Fund, and

then the balance of the Fund monthly after October 1, 2003, as follows:

- Highway Safety Fund - 24.7%
- Jail Reimbursement Program Fund - 13.0%
- Michigan Justice Training Fund - 13.0%
- Legislative Retirement System - 1.2%
- Drug Treatment Court Fund - 2.35%
- State Forensic Lab Fund - 3.9%
- State Court Fund - 14.3%
- Court Equity Fund - 25.55%
- State Treasurer - 1.0%
- State Court Administrative Office - 1.0%

After October 1, 2004, the formula would be changed to:

- Highway Safety Fund - 24.8%
- Jail Reimbursement Program Fund - 12.4%
- Michigan Justice Training Fund - 12.4%
- Legislative Retirement System - 1.15%
- Drug Treatment Court Fund - 2.85%
- State Forensic Lab Fund - 5.6%
- State Court Fund - 13.3%
- Court Equity Fund - 25.5%
- State Treasurer - 1.0%
- State Court Administrative Office - 1.0%

(Proposed MCL 600.181)

**Senate Bill 440:** The bill would add a new section to the RJA to establish the Drug Treatment Court Fund in the State Treasury, administered by the State Court Administrative Office. The bill specifies that a remaining balance at the end of the fiscal year would remain in the Fund rather than lapse to the General Fund. The Fund would be for the administration of, and awarding of grants for, drug court treatment programs around the State. The bill also specifies minimum eligibility requirements for drug court funding. (Proposed MCL 600.185)

**Senate Bill 441:** The bill would add a new section to the RJA to establish the Judicial Technology Improvement Fund in the State Treasury, administered by the State Court Administrative Office. The bill specifies that a remaining balance at the end of the fiscal year would remain in the Fund rather than lapse to the General Fund. The money would be used for the development and support of a statewide judicial information system with collaboration of the Supreme Court, the State Court Administrative Office, the Departments of Corrections, State Police, Information Technology, and State, and the Prosecuting Attorneys Association. The Fund also would support technology improvements to enhance public service and access to local trial courts. (Proposed MCL 600.175)

**Senate Bill 442:** The bill would amend the Crime Victim's Rights Act by including the new State minimum costs at the head of the offender payment priority schedule for the portion of payments that are not automatically sent to crime victims. (MCL 780.766a, 780.794a, & 780.826a)

**Senate Bill 443:** The bill would amend the juvenile code by including the new State minimum costs at the head of the offender payment priority schedule for the portion of payments that are not automatically sent to crime victims. (MCL 712A.29)

**Senate Bill 444 (S-1):** The bill would amend the Forensic Laboratory Funding Act to provide that after October 1, 2003, the court clerks would have to send the forensic assessment to the

Justice System Fund along with all other assessments, rather than earmarking the forensic assessment. (Under Senate Bill 439 (S-1), the State Treasury then would distribute the money accordingly.)

Under Senate Bill 445, the DNA assessment also would be sent to the Justice System Fund, but Senate Bill 439 (S-1) would direct this portion of the Fund to the Forensic Laboratory Fund. Senate Bill 444 (S-1) would provide for the disbursement of a portion of those funds to the Michigan State Police (MSP) to defray the cost of complying with the requirements of DNA profiling and DNA retention. The bill would require that 19% of the justice system assessment revenue sent to the Forensic Lab Fund go to the MSP in the first year, and 45% go to the MSP in the following years. (MCL 12.205-12.207)

**Senate Bill 445:** The bill would amend the DNA Identification Profiling System Act to require that after October 1, 2003, the court clerks send the State portion of the DNA assessment to the Justice System Fund with all other assessments, rather than earmarking the assessment. (Under Senate Bill 439 (S-1), the State Treasury then would distribute the money accordingly.) (MCL 28.176)

**Senate Bill 446:** The bill would amend the juvenile code to require that after October 1, 2003, the court clerks send the State portion of the juvenile DNA assessment to the Justice System Fund with all other assessments, rather than earmarking the assessment. (Under Senate Bill 439 (S-1), the State Treasury then would distribute the money accordingly.) (MCL 712A.18k)

**Senate Bill 447:** The bill would amend the Michigan Penal Code to require after October 1, 2003, the court clerks send the State portion of the DNA assessment to the Justice System Fund with all other assessments, rather than earmarking the assessment. (Under Senate Bill 439 (S-1), the State Treasury then would distribute the money accordingly.) (MCL 750.520m)

**Senate Bill 448:** The bill would amend the Code of Criminal Procedure by adding payment of the State minimum costs as a condition of probation. (MCL 771.3)

**Senate Bill 449:** The bill would amend the Code of Criminal Procedure by including the new State minimum costs at the head of the offender payment priority schedule for the portion of payments that are not automatically sent to crime victims. (MCL 775.22)

**Senate Bill 450:** The bill would amend the Corrections Code by adding payment of the State minimum costs as a condition of parole. (MCL 791.236)

**Senate Bill 451:** The bill would amend the Community Dispute Resolution Act to revise the funding formula. Currently, GF/GP funding supports each center with a threshold funding level as well as provides additional funding to some centers based on performance measure. Filing fee revenue is dispersed to centers based on the pro rata share of available grant funds generated by court filing fees imposed in counties served by the centers. Senate Bill 281 removed the balance of GF/GP funding from the community dispute resolution line and replaced it with revenue from increased filing fees. Senate Bill 451 would allow the State Court Administrative Office to use 35% of the filing fee revenue to establish threshold funding levels and award centers based on performance measures. The other 65% of filing fee revenue still would be used on the pro rata basis. (MCL 691.1560)

## **FISCAL IMPACT**

### **Filing Fee Increases (Senate Bill 438 (S-1))**

According to the State Court Administrative Office (SCAO), the current filing fees in the circuit, probate, and district courts generate approximately \$35.3 million in revenue. Of this, \$7.7 million stays in the local funding unit, while \$27.6 million is sent to the State. Under the

proposal, filing fee revenue would increase by over \$13 million. Of that increase, approximately \$3 million would go to locals for a total of just under \$11 million, and the other \$10 million would be sent to the State for a total of over \$48 million. Table 2 presents a breakdown of the State portion of filing fee revenue. Of the total anticipated increase in State revenue, over \$5.6 million was used to reduce the GF/GP appropriation in the Judiciary budget, \$855,000 was added to Judges' Retirement to make up for a reduction in the State minimum costs assessment proposal, and the other \$3.3 million represents gross increases, of which \$2.6 was appropriated to support the Judicial Technology Improvement Fund.

Recipient	Current	Proposed	% of Formula	Increase
State Court Fund	\$17,725,000	\$18,163,250	48.5%	\$438,250
Judges' Retirement System	\$7,578,750	\$8,988,000	24.0%	\$1,409,250
Community Dispute Resolution Fund	\$1,210,000	\$1,947,400	5.2%	\$737,400
State General Fund	\$551,250	\$561,750	1.5%	\$10,500
Legislative Retirement System	\$525,000	\$561,750	1.5%	\$36,750
Judicial Technology Improvement Fund	\$0	\$4,156,950	11.1%	\$4,156,950
Court Equity Fund	\$0	\$3,070,900	8.2%	\$3,070,900
<b>TOTAL</b>	<b>\$27,590,000</b>	<b>\$37,450,000</b>	<b>100.0%</b>	<b>\$9,860,000</b>

In addition to raising trial court filing fees, the proposal would increase filing fees in the Court of Appeals (COA). According to the SCAO, the additional filing fees would generate approximately \$437,500. Because filings have been down over the past few years, filing fee revenue in the COA has decreased. Although the FY 2002-03 budget is based on the receipt of \$1.57 million, anticipated revenue is only \$1,221,000, therefore creating a \$350,000 shortfall in the COA budget. The increased revenue from the COA filing fee would correct the shortfall as well as support an additional \$87,500 to the COA operations line.

By having the filing fees revert to their current levels after October 1, 2005, the bill also would reduce revenue to current levels. The formula would change to redistribute available funding such that each of the funds basically would receive the same amount it receives under the current system. This would create shortfalls in the Court Equity Fund, the Judicial Technology Improvement Fund, and the Community Dispute Resolution Fund, for a total reduction of approximately \$10 million. Local units also would face a revenue reduction of approximately \$3 million from the portion of the filing fee increases they no longer would receive. The Court of Appeals filing fees also would revert to current levels and again leave the COA budget with a revenue shortfall.

#### State Minimum Costs and the Justice System Assessment

Other than Senate Bill 438 (S-1), the bills would eliminate the collection of many distinct assessments and court costs, and create a single increased assessment on civil traffic infractions, and specific levels of court costs for other civil infractions, misdemeanors, and felonies. Table 3 presents more detail. Trial courts would send the entire amount to the State Treasury, which then would distribute the revenue according to a formula in Senate Bill 439 (S-1) to each of the previous recipients, other than the Secondary Road Patrol Fund, so that each, at a minimum, would be held harmless in the first year and likely would receive increased revenue in following years. Rather than being part of the formula, the Secondary Road Patrol Fund would receive exactly \$10 multiplied by the number of traffic civil infraction assessments collected each month. Assuming that the current level of 1.4 million civil infractions holds, the Secondary Road Patrol Fund would receive \$14 million each year and would not benefit from the increased revenue built into the second and third years. Table 4 shows a breakdown of the anticipated revenue for each fund under both the current and the proposed systems.

<b>Table 3: Proposed Increases to State Costs and Assessments</b>			
Offense	Current	Proposed	Projected Revenue Increase (By Year 3)
Civil Infraction: Non-traffic	\$9 Costs	\$10 Costs	\$20,000
Civil Infraction: Traffic	\$9 Costs + \$25 Assessment	\$40 Assessment	\$8,400,000
Misdemeanor: Non-serious	Avg. Of \$11.59/case in Costs but each varies	\$40 Costs	\$10,653,750
Misdemeanor: Serious or Specified		\$45 Costs	\$4,176,250
Felony		\$60 Costs	\$1,065,000
<b>TOTAL</b>			<b>\$24,315,000</b>

The SCAO estimates that the proposal potentially would increase overall annual revenue by approximately \$14.4 million in the first year and as much as \$24.3 million by the third year. The difference in increased revenue between years 1, 2, and 3 is caused by the lag between when the assessments or costs would be ordered and when they actually would be collected. During the first year of the proposal, of the increased State revenue, \$6.3 million would fund new troopers in the Michigan State Police Highway Safety Fund, \$5.85 million would replace GF/GP in the Court Equity Fund, \$1.2 million would be used for additional drug court funding, \$1.2 million would be split between the Department of Treasury and the SCAO for collection costs, fund administration, and auditing, and \$400,000 would increase support for the Forensic Lab and DNA collection.

<b>Table 4: Current and SB 439 (S-1) Proposed Revenue Allocation</b>						
State Agency/Fund	Current Revenue	Proposed Revenue Year 1	Percent Year 1	Proposed Revenue Year 2	Percent Year 2+	Proposed Revenue Year 3+
MSP-Highway Safety Fund	\$7,000,000	\$13,402,834	24.7	\$14,757,956	24.8	\$15,907,960
DOC- County Jail Reimbursement	\$7,000,000	\$7,054,123	13.0	\$7,378,978	12.4	\$7,953,980
MSP-Secondary Road Patrol	\$14,000,000	\$14,000,000	0.0	14,000,000	0.0	\$14,000,000
MSP-Justice Training Fund	\$7,000,000	\$7,054,123	13.0	\$7,378,978	12.4	\$7,953,960
MSP-Forensic Lab	\$1,500,000	\$2,116,237	3.9	\$3,332,442	5.6	\$3,592,120
MSP-DNA Fee	\$200,000	Would be included above with the Forensic Lab Fee				
Legislative Retirement Fund	\$570,000	\$651,150	1.2	\$684,341	1.15	\$737,668
Judges' Retirement	\$855,000	Replaced by Filing Fee Revenue under SB 438				
Drug Court Fund	\$0	\$1,275,168	2.35	\$1,695,975	2.85	\$1,828,133
State Court Fund	\$7,600,000	\$7,759,536	14.3	\$7,914,549	13.3	\$8,531,285
Court Equity Fund	\$8,075,000	\$13,921,816	25.55	\$15,174,512	25.5	\$16,356,975
Administration: Treasury & SCAO	\$0	\$1,085,250	2.0	\$1,190,158	2.0	\$1,282,900
<b>TOTAL</b>	<b>\$53,800,000</b>	<b>\$68,262,487</b>	<b>100.0</b>	<b>\$73,507,889</b>	<b>100.0</b>	<b>\$78,145,001</b>

Senate Bill 444 (S-1) would distribute the revenue in the first year such that both the Forensic Lab and DNA collection and retention would be funded at approximately the same level as was expected under the current system. In the following years, the Forensic Lab would receive a slight increase, while the majority of the expected increase in revenue would be directed to DNA collection and retention to assist in the DNA backlog. Table 5 provides more detail.

Table 5: Forensic Lab/DNA Revenue Distribution					
	MSP Current Projection	Proposed Revenue Year 1	Percent Year 1	Proposed Revenue Year 2	Percent Year 2
Forensic Lab Fee	1,600,000	1,714,152	81%	1,832,843	55%
DNA Fee	300,000	402,085	19%	1,449,599	45%
TOTAL	1,900,000	2,116,237	100%	3,332,442	100%

Local units of government also could benefit under the proposal. Currently, when a court orders payment of court costs, the first \$9 automatically goes to the State and the balance, up to a maximum allowed under statute depending on the type of offense, is kept by the local court. Under the proposal, the State minimum costs would be collected as a separate category of payment, and the local court would be able to keep the first \$9 it would have previously sent to the State from the court costs category. There are no data to indicate whether the courts would continue to order the same levels of courts costs or whether they would decrease costs accordingly by the \$9. According to the SCAO, if the courts continued to order the same level of court costs, local units of government would have the potential for increasing revenue by up to \$9.1 million in the first year and as much as \$17.1 million by the third year of implementation.

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